Remarks

Claims 1-29 are pending in the application.

Claims 4, 7-9 and 13-14 are rejected to as being dependent upon a rejected base claim, but would be allowable if the 101 rejection and the claim objections and the obvious double patenting rejection can be overcome and if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 18, 21 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if the claim objections and obvious double patenting rejection can be overcome and if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 25 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if the obvious double patenting rejection can be overcome and if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1-3, 6, 10, 11-12, 15-17, 19-20, 23-24 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen (U.S. Patent No.: 6,567,380, hereinafter "Chen") in view of Zaumen (U.S. Patent No.: 5,881,243, hereinafter "Zaumen").

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Zaumen (U.S. Patent No.: 5,881,243, hereinafter "Zaumen").

Claims 1-14 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter.

Claims 1 and 2 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of co-pending application No. 10/875,124.

Claims 1 and 2 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of co-pending application No. 10/670,940.

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Entry of this Amendment is proper under 37 CFR 1.116 since the amendment: (a) places the application in condition for allowance for the reasons discussed herein; (b) does not raise any new issue requiring further search and/or consideration since the amendments amplify issues previously discussed throughout prosecution; (c) satisfies a requirement of form asserted in the previous Office Action; (d) does not present any additional claims without canceling a corresponding number of finally rejected claims; or (e) places the application in better form for appeal, should an appeal be necessary. The amendment is necessary and was not earlier presented because it is made in response to arguments raised in the final rejection. Entry of the amendment is thus respectfully requested.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the

original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

STATEMENT OF SUBSTANCE OF INTERVIEW

Applicants thank the Examiner for taking time out of the Examiner's busy schedule to speak with Applicants' representative, Michael Bentley, on September 10, 2009 and for the courtesies extended during the interview. During the interview, Applicants' representative noted a discrepancy in the scope of the claims indicated by the Examiner as being allowable. More specifically, Applicants' representative noted that claim 7 was indicated as being allowable, whereas claim 17 was rejected. Applicants' representative provided reasons as to why the Examiner's arguments regarding the feature of claim 17 cannot support a rejection of Applicants' claims which include this feature. The Examiner suggested that Applicants' representative provide those arguments in a response to the Final Office Action. As requested by the Examiner, Applicants' representative has provided the reasons hereinbelow. Accordingly, in view of the Examiner's indication of allowable subject matter, the claim amendments made herein, and the reasoning provided herein, Applicants' representative respectfully submit that this application is now in condition for allowance.

Rejection Under 35 U.S.C. 101

Claims 15-22 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter.

Applicants maintain that claims 17 - 22 each satisfy the requirements of 35 U.S.C. § 101 and are patentable thereunder.

Applicants note that claims 17 – 22 each are directed toward an apparatus.

Applicants further note that a means-plus-function limitation is evaluated in light of the corresponding structure recited in the specification. See MPEP § 2182.

Applicants further note that 35 U.S.C. §112 ¶6 instructs that: "[a]n element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such

claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof."

Applicants submit that Applicants' originally-filed application discloses physical structures that correspond to each "means for" limitation in claims 17 – 22, such that one skilled in the art will understand that physical structure will perform the recited functions. For example, Applicants' originally-filed application depicts an embodiment of a router in FIG. 2. Furthermore, corresponding portions of Applicants' originally-filed specification describe embodiments of the exemplary router depicted in FIG. 2. Applicants' specification states that the router "...comprises a processor 210 as well as a memory 220 for storing control programs and the like. The processor 210 cooperates with conventional support circuitry 230 such as power supplies, clock circuits, cache memory and the like as well as circuits that assist in executing the software routines stored in the memory 220. As such, it is contemplated that some of the process steps discussed herein as software processes may be implemented within hardware, for example, as circuitry that cooperates with the processor 210 to perform various steps. The router 200 also contains input-output circuitry 240 that forms an interface between the various functional elements communicating with the router 200." (Applicants' Specification, Pg. 10, Lines 11 – 22). Applicants' specification further states that "[a]lthough the router 200 of FIG. 2 is depicted as a general purpose computer that is programmed to perform various control functions in accordance with the present invention, the invention can be implemented in hardware, for example, as an application specified integrated circuit (ASIC). As such, the process steps described herein are intended to be broadly interpreted as being equivalently performed by software, hardware, or a combination thereof." (Applicants' Specification, Pg. 10, Lines 23 – 29). Applicants note that this example is given for illustrative purposes only, in order to address the Examiner's rejection of the claims. Applicants respectfully submit that other relevant structural and, thus, statutory embodiments in accordance with Applicants' originally-filed application are possible.

Thus, Applicants submit that Applicants' originally-filed application discloses structures that may correspond to each "means for" limitation, such that one skilled in the art will understand that physical structure will perform the recited functions, and,

therefore, that claims 17 – 22 each satisfy the requirements of 35 U.S.C. § 101 and are patentable thereunder.

The Examiner is respectfully requested to withdraw the rejection.

Rejection Under 35 U.S.C. 103

Claims 1-3, 6, 10, 11-12, 15-17, 19-20, 23-24 and 26-28

Claims 1-3, 6, 10, 11-12, 15-17, 19-20, and 26-28

Claims 1-3, 6, 10, 11-12, 15-17, 19-20, and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Zaumen. The rejection is traversed.

Chen and Zaumen, alone or in combination, fail to disclose all of the elements of Applicants' claim 1.

Namely, Chen and Zaumen, alone or in combination, fail to teach or suggest at least the limitations of "wherein the reason information is adapted for use by the second node to determine which candidate routes of the second node are affected by the event that triggered the received route update or withdraw and which candidate routes of the second node are not affected by the event that triggered the received route update or withdraw, wherein a candidate route is considered as a transient route if the reason information indicates that the candidate route is to be updated or withdrawn," as claimed in Applicants' claim 1.

Chen, as admitted by the Examiner, is devoid of any teaching or suggestion of transmitting or receiving reason information associated with a route update or withdraw.

Rather, Chen merely discloses that a router identifies how a route has changed and compares how the route has changed with configuration information for a neighbor router in order to determine whether or not a route update needs to be sent to that neighbor router.

Thus, Chen fails to teach or suggest "wherein the reason information is adapted for use by the second node to determine which candidate routes of the second node are affected by the event that triggered the received route update or withdraw and which candidate routes of the second node are not affected by the event that triggered the

received route update or withdraw, wherein a candidate route is considered as a transient route if the reason information indicates that the candidate route is to be updated or withdrawn," as claimed in Applicants' claim 1.

Furthermore, Zaumen fails to bridge the substantial gap between Chen and Applicants' claim 1.

Zaumen discloses a system for maintaining routing tables, at each router in a computer network, that is based on (a) a feasibility condition that provides multiple loop-free paths through the computer network and that minimizes the amount of synchronization among routers necessary for the correct operation of a routing algorithm and (b) a method that manages the set of successors during the time is synchronizes its routing-table update activity with other routers, in order to efficiently compute multiple loop-free paths through the computer network. (Zaumen, Abstract).

Zaumen, however, is devoid of any teaching or suggestion of that reason information is adapted for use in determining which candidate routes are affected by an event that triggered a received route update or withdraw and which candidate routes are not affected by an event that triggered a received route update or withdraw, where a candidate route is considered as a transient route if the reason information indicates that the candidate route is to be updated or withdrawn.

With respect to a similar limitation recited in Applicants' claim 17 in Applicants' previous response, the Examiner argued that "[a]ny route that has been updated or withdrawn will inherently be a transient route and the receiving router labels the routes in the table with a TA (transient attribute) transient indicator per Fig 9)." (Final Office Action, Pg. 4).

In response, Applicants respectfully note that Applicants' limitation indicates that a candidate route is considered as a transient route if a network device determines from the received reason information that the candidate route is to be updated or withdrawn, not that the route that is being or has been updated or withdrawn is considered as a transient route. Thus, the Examiner's argument regarding inherency does not address Applicants' limitation of "wherein a candidate route is considered as a transient route if the reason information indicates that the candidate route is to be updated or withdrawn," and, therefore, does not provide a proper basis for rejection of Applicants' claim 1.

Furthermore, Applicants submit that neither Chen nor Zaumen inherently teaches that any route that has been updated or withdrawn will be considered as a transient route.

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (emphasis added). *See MPEP* § 2112. To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' In re Robertson, 169 F.3d 743, 745, 49 USPQ.2d 1949, 1950-51 (Fed. Cir. 1999). See id.

Applicants submit that neither Chen nor Zaumen inherently teaches that that any route that has been updated or withdrawn will be considered as a transient route, because neither Chen nor Zaumen necessarily requires that any route that has been updated or withdrawn will be considered as a transient route. Thus, the Examiner's argument deals in probabilities and possibilities, which are insufficient to establish inherency. Robertson, 49 USPQ2d at 1950.

Thus, for at least these reasons, Chen and Zaumen, alone or in combination, fail to teach or suggest at least the limitations of "wherein the reason information is adapted for use by the second node to determine which candidate routes of the second node are affected by the event that triggered the received route update or withdraw and which candidate routes of the second node are not affected by the event that triggered the received route update or withdraw, wherein a candidate route is considered as a transient route if the reason information indicates that the candidate route is to be updated or withdrawn," as claimed in Applicants' claim 1.

As such, independent claim 1 is patentable under 35 U.S.C. 103(a) over Chen in view of Zaumen. Similarly, independent claims 17, 24, 26, and 27 recite relevant limitations similar to those recited in independent claim 1 and, as such, and at least for the same reasons as discussed above, these independent claims also are patentable under 35 U.S.C. 103(a) over Chen in view of Zaumen. Furthermore, since all of the dependent claims that depend from the independent claims include all the limitations of the

respective independent claim from which they ultimately depend, each such dependent claim is also patentable under 35 U.S.C. 103(a) over Chen in view of Zaumen.

Therefore, the rejection should be withdrawn.

Claims 23-24

Claims 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Zaumen. The rejection is traversed.

Applicants have herein cancelled claim 23.

Chen and Zaumen, alone or in combination, fail to disclose all of the elements of Applicants' claim 24.

Namely, Chen and Zaumen, alone or in combination, fail to teach or suggest at least the limitations of "using the received reason information to determine which candidate routes are affected by the event that triggered the received route update or withdraw and which candidate routes are not affected by the event that triggered the received route update or withdraw, wherein a candidate route is considered as a transient route if a network device determines from the received reason information that the candidate route is to be updated or withdrawn," as claimed in Applicants' claim 24.

Chen, as admitted by the Examiner, is devoid of any teaching or suggestion of transmitting or receiving reason information associated with a route update or withdraw.

Rather, Chen merely discloses that a router identifies how a route has changed and compares how the route has changed with configuration information for a neighbor router in order to determine whether or not a route update needs to be sent to that neighbor router.

Thus, Chen fails to teach or suggest "using the received reason information to determine which candidate routes are affected by the event that triggered the received route update or withdraw and which candidate routes are not affected by the event that triggered the received route update or withdraw, wherein a candidate route is considered as a transient route if a network device determines from the received reason information that the candidate route is to be updated or withdrawn," as claimed in Applicants' claim 24.

Furthermore, Zaumen fails to bridge the substantial gap between Chen and Applicants' claim 24.

Zaumen discloses a system for maintaining routing tables, at each router in a computer network, that is based on (a) a feasibility condition that provides multiple loop-free paths through the computer network and that minimizes the amount of synchronization among routers necessary for the correct operation of a routing algorithm and (b) a method that manages the set of successors during the time is synchronizes its routing-table update activity with other routers, in order to efficiently compute multiple loop-free paths through the computer network. (Zaumen, Abstract).

Zaumen, however, is devoid of any teaching or suggestion of using received reason information to determine which candidate routes are affected by an event that triggered a received route update or withdraw and which candidate routes are not affected by an event that triggered a received route update or withdraw, where a candidate route is considered as a transient route if a network device determines from the received reason information that the candidate route is to be updated or withdrawn.

With respect to a similar limitation recited in Applicants' claim 17 in Applicants' previous response, the Examiner argued that "[a]ny route that has been updated or withdrawn will inherently be a transient route and the receiving router labels the routes in the table with a TA (transient attribute) transient indicator per Fig 9)." (Final Office Action, Pg. 4).

In response, Applicants respectfully note that Applicants' limitation indicates that a candidate route is considered as a transient route if a network device determines from the received reason information that the candidate route is to be updated or withdrawn, not that the route that is being or has been updated or withdrawn is considered as a transient route. Thus, the Examiner's argument regarding inherency does not address Applicants' limitation of "wherein a candidate route is considered as a transient route if a network device determines from the received reason information that the candidate route is to be updated or withdrawn," and, therefore, does not provide a proper basis for rejection of Applicants' claim 24.

Furthermore, Applicants submit that neither Chen nor Zaumen inherently teaches that any route that has been updated or withdrawn will be considered as a transient route.

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (emphasis added). *See MPEP* § 2112. To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' In re Robertson, 169 F.3d 743, 745, 49 USPQ.2d 1949, 1950-51 (Fed. Cir. 1999). See id.

Applicants submit that neither Chen nor Zaumen inherently teaches that that any route that has been updated or withdrawn will be considered as a transient route, because neither Chen nor Zaumen necessarily requires that any route that has been updated or withdrawn will be considered as a transient route. Thus, the Examiner's argument deals in probabilities and possibilities, which are insufficient to establish inherency. Robertson, 49 USPQ2d at 1950.

Thus, for at least these reasons, Chen and Zaumen, alone or in combination, fail to teach or suggest at least the limitations of "using the received reason information to determine which candidate routes are affected by the event that triggered the received route update or withdraw and which candidate routes are not affected by the event that triggered the received route update or withdraw, wherein a candidate route is considered as a transient route if a network device determines from the received reason information that the candidate route is to be updated or withdrawn," as claimed in Applicants' claim 24.

As such, independent claim 24 is patentable under 35 U.S.C. 103(a) over Chen in view of Zaumen.

Therefore, the rejection should be withdrawn.

Claim 5

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Bi further in view of Zaumen.

This ground of rejection applies only to a dependent claim and is predicated on the validity of the rejection under 35 U.S.C. 103 given Chen in view of Zaumen. Since the rejection under 35 U.S.C. 103 given Chen in view of Zaumen has been overcome, as described hereinabove, these grounds of rejection cannot be maintained.

Therefore, the rejection should be withdrawn.

Double Patenting Rejection

Claims 1 and 2 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of co-pending application No. 10/875,124.

Claims 1 and 2 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of co-pending application No. 10/670,940.

Applicants submit that, since a double patenting rejection depends on the claims of the application, until Applicants have claims that are allowable but for the double patenting rejection, Applicants cannot evaluate the correctness of any suggested double patenting rejection. As such, Applicants also cannot determine any arguments that might be put forth against the suggested double patenting rejection. Therefore, as any response to this double patenting rejection would be premature, Applicants will address this ground of rejection, assuming *arguendo* that it is still applicable, once all other grounds of rejection are overcome.

Allowable Subject Matter

Claims 4, 7-9 and 13-14 are rejected to as being dependent upon a rejected base claim, but would be allowable if the 101 rejection and the claim objections and the obvious double patenting rejection can be overcome and if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 18, 21 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if the claim objections and obvious double patenting rejection can be overcome and if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 25 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if the obvious double patenting rejection can be overcome and if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants thank the Examiner for indicating allowability with respect to claims 4, 7-9, 13-14, 18, 21-22, 25 and 29. Applicants have herein amended the claims substantially in the manner suggested by the Examiner, although it should be noted that, for at least some of the claims, incorporation of the features of the dependent claims into the independent claims was done in a manner that modified the existing language of the claims. Applicants submit that, in view of the amendments made herein, the independent claims 1, 4, 7, 17, 24, 26, and 27 are allowable, and, thus, the dependent claims 8-9, 13-14, 18, 21-22, 25 and 29 also are allowable.

Therefore, the objections should be withdrawn.

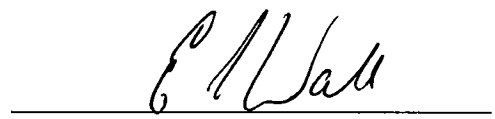
Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 842-8110 x120 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

Dated: 9/16/09



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